

JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS
455 Golden Gate Avenue
San Francisco, California 94102-3688

Report

TO: Members of the Judicial Council

FROM: Christine M. Hansen, Director, Finance Division
Michael A. Fischer, Senior Attorney, Office of the General Counsel

DATE: November 19, 2004

SUBJECT: Allocation of Revenue from the Trial Court Improvement Fund
(adopt rule 6.105) (Action Required)

Issue Statement

Government Code 77205(a), attached at page 5, requires the Judicial Council, by rule of court, to allocate 80 percent of the amount of fee, fine, and forfeiture revenue deposited into the Trial Court Improvement Fund (Improvement Fund) in each fiscal year that the amount of revenue deposited exceeds the amount of fee, fine, and forfeiture revenue deposited in fiscal year 2002–2003 as follows:

1. To the trial courts in the counties from which the revenue was deposited;
2. To support local court operations among other trial courts pursuant to section 68085(a)(1) by allocation to those courts; and
3. For retention in the Trial Court Improvement Fund.

Recommendation

Staff recommends that the Judicial Council, effective January 1, 2005, adopt rule 6.105 of the California Rules of Court to meet the requirements set forth under Government Code section 77205(a) to provide the Judicial Council with the authority to allocate certain revenue deposited into the Trial Court Improvement Fund.

The text of proposed rule 6.105 is attached at page 4.

Rationale for Recommendation

The adoption of proposed rule 6.105 would set forth the use of the increased fee, fine, and forfeiture revenue. The proposed rule also would require the Administrative Office of the Courts (AOC) to recommend the methodology to be

used to make the allocation mandated by the statute and the rule. Upon approval by the council, the methodology would be issued as a Finance Memo and incorporated into the Trial Court Financial Policies and Procedures Manual. The methodology would also be used to recommend an allocation to the council.

Alternative Actions Considered

The statute requires that a rule be adopted as part of the allocation process. No alternative action was considered.

Comments From Interested Parties

The proposed rule was circulated for comment using a special schedule approved by the Rules and Projects Committee. Thirteen people responded. Nine people supported the proposal without modification.¹ Three people supported the proposal if modified.² One person inquired as to whether a particular form of allocation would be made.³ A chart listing the comments and staff responses is attached at pages 6-11.

One of the comments requested that the rule expressly state a priority for baseline funding for court operations so as to ensure predictability to the court in planning.⁴ Another was concerned that the rule as adopted did not create a priority in terms of allocation categories.⁵ The council will address these concerns when it makes the actual allocations each year, not as part of the rule adoption process authorizing the allocations.

The other comment expressing concerns raised three issues:⁶

1. The rule should require council action “each year.”
2. The rule should not be implemented by a Finance Memo.

¹Hon. Edward Moffat, Presiding Judge, Superior Court of California, County of Madera; Roy Blaine, Chief Fiscal Officer, Superior Court of California, County of Santa Cruz; Vivian Bowen, Senior Accountant, Superior Court of California, County of Stanislaus; Barbara Fox, Chief Executive Officer, Superior Court of California, County of Santa Cruz; José Guillén, Executive Officer, Superior Court of California, County of Imperial; Inga McElyea, Court Executive Officer, Superior Court of California, County of Riverside; William Mitchell, Deputy Executive Officer, Superior Court of California, County of Los Angeles; Jody Patel, Court Executive Officer, Superior Court of California, County of Sacramento; and Sharol Strickland, Court Executive Officer, Superior Court of California, County of Butte;

² Stephen V. Love, Executive Officer, Superior Court of California, County of San Diego; Jim Perry, Court Executive Officer, Superior Court of California, County of Yolo; and Yvonne Pritchard, Deputy Court Executive Officer, Superior Court of California, County of San Bernardino.

³ Don Schell, Superior Court of California, County of Placer. Mr. Schell inquired whether a one-time allocation could be made to the county to enhance the collections process. He has been informed that an allocation could only be made to the court for court expenses under the Trial Court Improvement Fund.

⁴ Mr. Love.

⁵ Mr. Perry.

⁶ Ms. Pritchard.

3. In response to courts' needs, the proposed methodology includes provisions allowing amounts distributed to the trial courts to be used by the courts for Rule 810 allowable expenditures in order to fill one-time obligations and to address cash flow issues. In addition, on a one-time basis, courts may use these amounts to offset the costs of their enhanced collections efforts. These amounts cannot be used for new ongoing obligations such as salary and benefit increases.

Each of these concerns is addressed in the staff response to the comment chart. In summary the answers are:

1. The statute requires the allocation "each year" and it is appropriate to make the rule an annual requirement.
2. The AOC, in implementing the rule pursuant to delegation by the council, would properly use a Finance Memo. This Finance Memo will contain the allocation methodology that has been approved by the council.
3. Enhanced collection costs, except for one-time startup costs, would be recouped from the collections.

Implementation Requirements and Costs

The proposal has no implementation costs other than those associated with the adoption of any rule of court.

Attachments

Rule 6.105 is added to the California Rules of Court, effective December 10, 2004, to read as follows:

1 **Rule 6.105. Allocation of new fee, fine, and forfeiture revenue**

2
3 (a) The Judicial Council must annually allocate 80 percent of the amount of fee,
4 fine, and forfeiture revenue deposited in the Trial Court Improvement Fund
5 pursuant to Government Code section 77205(a) that exceeds the amount of
6 fee, fine, and forfeiture revenue deposited in the Trial Court Improvement
7 Fund in fiscal year 2002-2003 to one or more of the following:

8
9 (1) To the trial courts in the counties from which the increased amount is
10 attributable;

11
12 (2) To other trial courts to support trial court operations; or

13
14 (3) For retention in the Trial Court Improvement Fund.

15
16 (b) The Administrative Office of the Courts must recommend a methodology for
17 the allocation and must recommend an allocation based on this methodology.
18 Upon approval of a methodology by the Judicial Council, the Administrative
19 Office of the Courts must issue a Finance Memo setting forth the
20 methodology adopted by the Judicial Council.

Government Code section 77205(a)

Notwithstanding any other provision of law, in any year in which a county collects fee, fine, and forfeiture revenue for deposit into the county general fund pursuant to Sections 1463.001 and 1464 of the Penal Code, Sections 42007, 42007.1, and 42008 of the Vehicle Code, and Sections 27361 and 76000 of, and subdivision (f) of Section 29550 of, the Government Code that would have been deposited into the General Fund pursuant to these sections as they read on December 31, 1997, and pursuant to Section 1463.07 of the Penal Code, and that exceeds the amount specified in paragraph (2) of subdivision (b) of Section 77201 for the 1997-98 fiscal year, and paragraph (2) of subdivision (b) of Section 77201.1 for the 1998-99 fiscal year, and thereafter, the excess amount shall be divided between the county or city and county and the state, with 50 percent of the excess transferred to the state for deposit in the Trial Court Improvement Fund and 50 percent of the excess deposited into the county general fund. The Judicial Council, by court rule, shall allocate 80 percent of the amount deposited in the Trial Court Improvement Fund pursuant to this subdivision each fiscal year that exceeds the amount deposited in the 2002-03 fiscal year among:

- (1) The trial court in the county from which the revenue was deposited.
- (2) Other trial courts, as provided in paragraph (1) of subdivision (a) of Section 68085.
- (3) For retention in the Trial Court Improvement Fund.

For the purpose of this subdivision, fee, fine, and forfeiture revenue shall only include revenue that would otherwise have been deposited in the General Fund prior to January 1, 1998.

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1.	Mr. Roy Blaine Chief Fiscal Officer Superior Court of California, County of Santa Cruz Santa Cruz	A	N	This proposal is a much-needed step in assisting the courts to establish best practices in the effort to improve the service of justice in collection of fees and fines, and support the good of the order in improving revenue collection for the branch.	None needed
2.	Ms. Vivian Bowen Senior Accountant Stanislaus Superior Court Modesto	A	N	<p>1. Does this affect our current allocation from TCIF?</p> <p>2. Under rule 6.105 – is this the order for distributing excess money (1-3)?</p>	<p>a) This does not impact the current allocations from the Improvement Fund. These are additional revenues above the level collected in FY 2002–2003. To the extent a court’s collections are above the level collected in FY 2002–2003, these revenues will result in an addition allocation to trial courts.</p> <p>b) The listing of items for distribution is not in order of priority.</p>
3.	Ms. Barbara Fox Chief Executive Officer Superior Court of California, County of Santa Cruz Santa Cruz	A	N		None needed.
4.	José Guillén	A	N	Agree with proposed changes.	None needed.

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	Executive Officer Superior Court of California, County of Imperial El Centro				
5.	Stephen V. Love Executive Officer Superior Court of California, County of San Diego San Diego	AM	N	The administration of San Diego Superior Court has the following comment: Trial courts currently rely on funding from the Trial Court Improvement Fund as part of their baseline allocation for “court operations.” As currently drafted, the proposed change in rule of court could result in a reduction to our Court’s current baseline funding or make funding levels unpredictable for budgeting purposes. The San Diego Superior Court is very concerned that the proposed change would result in reduced or unpredictable baseline funding for day-to-day operations.	See response to item 2a above. In addition, these funds are to be considered one-time funding and not to be used to commit the court to new, ongoing obligations.
6.	Ms. Inga McElyea Court Executive Officer Superior Court of California, County of Riverside Riverside	A	N	Agree with proposed changes.	None needed.
7.	Mr. William Mitchell Deputy Executive Officer Superior Court of California, County of Los	A	N	This rule appears to provide the AOC the authority to develop a budgetary process for future use of these funds in accordance with Government Code 77205(a). The new Rule	None needed.

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	Angeles Los Angeles			6.105 appears to have no adverse impact on local courts.	
8.	Hon. Edward Moffat Presiding Judge Superior Court of California, County of Madera Madera	A	N	This is absolutely necessary and long overdue.	None needed.
9.	Ms. Jody Patel Court Executive Officer Superior Court of California, County of Sacramento Sacrament	A	N	Agree with proposed changes.	None needed.
10.	Mr. Jim Perry Court Executive Officer Superior Court of California, County of Yolo Woodland	AM	N	We tentatively agree with the proposed change, however, there should be a priority or conditional approach to the distribution. Currently, as written, funds can be distributed among three categories without any priority or conditions.	During the December Judicial Council meeting, staff are also presenting a report recommending methodology for determining the annual distribution of these revenues. This report to the Council will also include staff's recommendation for the distribution of these excess revenues for FY 2003-2004 and the rationale for the recommendation.
11.	Ms. Yvonne Pritchard	AM	N	a) The words "Each Year" should be placed at	a) "Annually" will be added to

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	Superior Court of California, County of San Bernardino San Bernardino			<p>the beginning of rule 6.105(a), “Each year the Judicial Council must...”</p> <p>b) 6.105(b) should be deleted.</p> <p>A Finance Memo may be used to inform of administrative decisions and policies but not to implement a Rule of Court.</p> <p>c) I am also concerned with the discussion reference to implementation of enhanced collections programs. Costs of these programs can and should be off set from the resultant program. It may be appropriate to loan start up funds, but these should be repaid from the resulting revenue.</p>	<p>the proposed language as recommended.</p> <p>b) Item b will be amended as follows: “The Administrative Office of the Courts must recommend the methodology for the allocation and must recommend an allocation based on this methodology. Upon approval of the methodology by the council, the Administrative Office of the Courts must issue a Finance Memo setting forth the methodology..”</p> <p>c) The reference to implementation of enhanced collections programs is intended to be on a one-time startup basis. Once the program is established, the revenue should pay for the costs of the program.</p>
12.	Mr. Don Schell Superior Court of California, County of Placer Placer		N	Placer County would like to benefit from the rule change to the extent that they could use funding (as a pass through from us) to make one-time modifications to facilities to “enhance” the collections process. Can Improvement Fund money be used to benefit the County in their	The money will only be made available if the court is using it to implement or enhance their collections program. If the county operates the system, this money is not available. This

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				(our) obligations under SB940 that pushes us to cooperatively work together to “enhance” the intent of the Improvement Fund. Appreciate anything you can provide in the way of insight.	results from the language setting up the TCIF and not from anything in the proposed rule.
13.	Ms. Strickland Sharol Strickland Court Executive Officer Superior Court of California, County of Butte Oroville	A	N	<p>a) Will the Finance Memo referenced in Rule 6.105(b) specifically address the criteria to be used in determining how the allocations will be made?</p> <p>b) It is important that incentives are available to the local courts to encourage on-going improvements to new and existing collections and compliance programs.</p> <p>c) A portion of the allocation should be dedicated to covering staffing cost increases associated with increased salaries/benefits, retirement and workers compensation costs accruing to these programs.</p>	<p>a) See the response to item 11b above and the amended language for the proposed rule.</p> <p>b) The provision of incentives to encourage collections and compliance program is part of the reason for this provision and will be considered in the making of allocations.</p> <p>c) In response to courts’ needs, the proposed methodology includes provisions allowing amounts distributed to the trial courts to be used by the courts for Rule 810 allowable expenditures in order to fill one-time obligations and to address cash flow issues. In addition, on a one-time basis, courts may use these amounts to offset the costs of their enhanced collections efforts. These amounts cannot be used for new ongoing</p>

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